United Nations A/C.6/58/L.9

General Assembly

Distr.: Limited
3 October 2003

Original: English

Fifty-eighth session
Sixth Committee
Agenda item 158
International convention against the reproductive cloning of human beings

International convention against the reproductive cloning of human beings

Report of the Working Group

Chairman: Mr. Juan Manuel **Gomez Robledo** (Mexico)

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03-54151 (E) 071003

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I. Introduction

1. The General Assembly, in its resolution 56/93 of 12 December 2001, decided to establish the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings, to consider the elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings, including a list of existing international instruments to be taken into consideration and a list of issues to be addressed in the convention. The Assembly also recommended that the work continue during its fifty-seventh session, within the framework of a working group of the Sixth Committee.

2. Subsequently, in its decision 57/512 of 19 November 2002, the General Assembly decided that a working group of the Sixth Committee should be convened during the fifty-eighth session of the Assembly from 29 September to 3 October 2003 in order to continue the work undertaken during the fifty-seventh session.

3. Accordingly, the Sixth Committee, at its 1st meeting of the fifty-eighth session, on 29 September 2003, established such a Working Group open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. The Committee also elected Juan Manuel Gomez Robledo (Mexico) as the Chairman of the Working Group.

4. The Working Group held 5 meetings, from 29 September to 3 October 2003.

5. The Working Group had before it its report on its previous session (A/C.6/57/L.4), the report of the Sixth Committee during the fifty-seventh session (A/57/569), the revised version of the information document prepared by the Secretariat containing, inter alia, a list of relevant international instruments on human cloning (A/AC.263/2002/INF/1/Rev.1), a draft international convention for the prohibition of all forms of human cloning and a brief explanatory commentary thereon submitted by Costa Rica (see A/58/73) and a paper submitted by the Holy See (A/C.6/58/WG.1/CRP.1).

6. The Working Group considered and adopted its report at its 5th meeting, on 3 October.

II. Proceedings of the Working Group

7. The Working Group held a general exchange of views at its 1st, 2nd and 3rd meetings, on 29 and 30 September and 2 October. An informal summary of the general discussion in the Working Group, prepared by the Chairman, is included in annex II to the present report. The summary is intended for reference purposes only, and not as an official record of the discussions.

8. The Working Group also decided to hear a statement by the representative of the United Nations Educational, Scientific and Cultural Organization (UNESCO) at its 1st meeting, on 29 September.

9. Discussions were subsequently held both in the Working Group and in informal consultations.

Elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings

10. The Working Group held informal consultations, chaired by Bart Wijnberg (Netherlands), concerning the consideration of the elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings, on 1 and 2 October.

III. Recommendations and conclusions

11. At its 5th meeting, on 3 October, the Working Group decided to refer the present report to the Sixth Committee for its consideration and recommended that the Committee continue the consideration of the elaboration of a negotiatio mandate during the current session, taking into account the discussions ir the Working Group.

Annex I

Written amendments and proposals submitted by delegations

Paper submitted by the Holy See (A/C.6/58/WG.I/CRP.1)

Views of the Holy See on human embryonic cloning

1. The Holy See strongly supports the advancement of human biological sciences and agrees with the procurement of human stem cells, as long as they are not harvested from live embryos, that is, so-called "adult" stem cells. It also supports the use for research or therapeutic purposes of these "adult" stem cells and of any material derived from them, provided that this use is pursued in a way that does not offend human dignity and, if applied clinically, respects the principle of full informed consent. The procurement, research and potential therapies with "adult" stem cells meet, in principle, these moral criteria, and as far as is known, they also contain a great scientific promise.

2. The difference between "reproductive" cloning and "research" cloning (so-called "therapeutic" cloning) consists only in the objective of the procedure: in "reproductive" cloning one intends to develop a child by implanting the cloned embryo in a womb. In "research" cloning, one intends to use the cloned embryo in such a way that it is ultimately destroyed. To ban "reproductive" cloning only, without prohibiting "research" cloning, would be to allow the production of individual human lives with the intention of destroying these lives as part of the process of using them for scientific research. The early human embryo, not yet implanted into a womb, is nonetheless a human individual, with a human life, and evolving as an autonomous organism towards its full development into a human foetus. Destroying this embryo is therefore a grave moral disorder, since it is the deliberate suppression of an innocent human being.

3. The Holy See believes that these forms of artificial asexual and agamic reproduction to create human embryos gravely offend the dignity of the human race and the dignity of human life. No one should ever do evil in order to achieve a good. When, in an effort to advance human science or to help human beings in need, one faces a choice between an unobjectionable means, such as "adult" stem cells, and a means that is universally recognized as raising profound ethical questions, such as "research" cloning, prudence dictates choosing only the unobjectionable means. Therefore, even those who do not share the view that the cloned human embryo has full human dignity should still be opposed to all forms of human embryonic cloning.

4. It is the view of the Holy See that any possible attempt to limit a ban on human cloning to that undertaken for reproductive purposes would be nearly impossible to enforce since human embryos cloned for research purposes would be widely available and would have the potential to be brought to birth simply by transfer to a womb using procedures employed for artificially assisted reproduction. Since human reproductive cloning is universally condemned, only a complete ban on all forms of human embryonic cloning would achieve the goal of prohibiting human reproductive cloning.

5. Further, if research cloning were permitted, it would require, to be effective, a large number of human oocytes. The Holy See is concerned by this prospect for

several reasons. In the first place, the process would use the body of women as a reservoir of oocytes without any consideration being given to the number of donations and her procreative future. In the second place, the massive demand for human oocytes would disproportionately affect the poor and marginalized of the world bringing a new type of injustice and discrimination into existence.

6. Human cloning would encourage the development of a trade in cloned human embryos and their derivatives for scientific research or for industrial research and development purposes. Therefore, an explicit prohibition of such exchanges regardless of whether they are commercial or not should be enacted. No intellectual property rights should be granted to information or technologies specific to human cloning.

7. The Holy See seeks a complete and explicit prohibition on all techniques of creating new individual human embryos by cloning, including somatic cell nuclear transfer, embryo splitting and other similar techniques that may develop in the future. This prohibition must also encompass parthenogenesis and the creation of human-animal "chimeric embryos" by nuclear transfer.

17 July 2003

Annex II

Informal summary of the general discussion in the Working Group, prepared by the Chairman

1. Many speakers reiterated their support for the continued consideration of the topic. However, it was noted with concern that, despite two years of discussing the topic in the General Assembly, limited progress had been made. Many speakers stressed the importance of reaching consensus on how to move forward on the issue. States were also called upon to make all efforts to reach such consensus on a negotiation mandate, leading to the commencement of the negotiations soon thereafter, thereby sending an important signal to the international community. Strong support was also expressed for retaining the item in the agenda of the Assembly.

2. However, the general discussion continued to reveal a divergence of views among delegations. Some speakers spoke in favour of an international convention prohibiting all forms of human cloning, as proposed in draft resolution A/C.6/58/L.2. There was concern that developments in the medical sciences and genetic research, despite the possibility that they offered curing diseases, could be used to breach human rights and to violate the intrinsic dignity of all human beings. Indeed, it was stated that the dignity of human life did not tolerate the testing of human embryos, whatever the objective. In that regard, the view was expressed that an embryo was a human being in the earliest stages of formation and thus the killing of embryos for therapeutic purposes constituted a grave attack on the dignity of mankind. It was also pointed out that human cloning degraded the human being into a mere object of industrial production and manipulation.

3. The view was likewise expressed that cloning for "therapeutic" or "experimental" purposes was inherently risky, especially for donor women. Indeed, concern was expressed that the demand for human eggs would disproportionately affect the poor and marginalized women, resulting in a new form of discrimination. Similarly, the prospect of the successful development of therapeutic techniques was considered limited, and of dubious value, especially in the light of the serious ethical implications it raised, arising from the deliberate production and destruction of human embryos. Instead, a preference was expressed for adult stem cell research as a viable alternative with proved results. In terms of another suggestion, States were urged to allocate those funds that would otherwise be spent on human cloning techniques, towards other issues such as human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS), infant mortality and morbidity, famine and desertification.

4. It was also stated that a partial ban, limited only to cloning for reproductive purposes, would be a false ban, since it would be confusing, ineffective and impossible to enforce. It would also lead to the unacceptable result of embryos' being exploited as commodities for commercial use. Instead, only a complete ban on all forms of human embryonic cloning would achieve the goal of prohibiting human reproductive cloning, and would be more durable. Similarly, an all-inclusive convention would properly allow States to formulate appropriate domestic legislation on human cloning.

5. Some other speakers were of a different view. It was recalled that the mandate of the Working Group was limited to establishing a negotiation mandate for the elaboration of an international convention against the reproductive cloning of human beings. The Working Group's attention was drawn to recent announcements of the birth of cloned humans, which, although not confirmed, had highlighted the urgent need for an international ban on reproductive cloning of human beings. It was stated that a lack of universally binding regulations dealing with any type of cloning of human beings constituted an open invitation for certain scientists to undertake the kind of research which was considered by all to be morally repugnant and contrary to human dignity. Indeed, some speakers, supporting a narrower ban on cloning for reproductive purposes, pointed out that their own domestic legislation already banned all forms of cloning. Hence, their support for a narrower approach was based solely on pragmatic reasons: it was viewed as the only possible basis on which to achieve consensus at the international level. Support was thus expressed for the revised Franco-German non-paper espousing a negotiating mandate for a comprehensive convention that would, on the one hand, adopt a strict ban on cloning of human beings for reproductive purposes, while, on the other, seek to regulate other forms of cloning by giving future States parties the option either to ban or impose a moratorium on such types of cloning or otherwise to regulate them by means of national legislation.

6. Several other speakers also described activities undertaken at the national level, inter alia, through legislation, to regulate human embryonic research for non-reproductive purposes. It was pointed out that the decision to allow such research had followed from an extensive national debate and internal consultation process, and that the legislation in question provided robust safeguards for the protection of the embryo, such as national monitoring mechanisms, while strictly prohibiting cloning for reproductive purposes. The view was expressed that therapeutic cloning research, as such, should be allowed to continue in countries that had reached a national consensus on the issue and had put into place a rigorous and effective system of regulation of embryo research. Indeed, several speakers also pointed to the potential that therapeutic cloning offered for curing disease and improving human life; and reference was made to recent statements, emanating from within the international scientific community, expressing support for a ban on reproductive cloning, while allowing therapeutic cloning to continue. It was observed that, given the complexity of the issue, an approach that respected the diversity of views and beliefs among States offered the greater chance of success. Such an approach would also enjoy the benefit of taking into account the views of those States whose national laws banned cloning only for reproductive purposes, but allowed research, including on human embryos, for non-reproductive purposes, albeit strictly regulated.

7. Other suggestions included agreeing on a general mandate for negotiation, so as to commence the work, albeit without stipulating at this stage the scope of the future convention; and calling for a moratorium on such activities, although it was cautioned that the General Assembly did not have the authority to impose a binding moratorium on States. It was also suggested that the Working Group consider the economic, sustainable development and human rights implications of the subject, in particular with regard to gender, children and indigenous peoples.